REMARKS

This Amendment is being filed in response to the Office Action mailed on August 31, 2010 which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the remarks to follow are respectfully requested.

Claims 3-29 are pending in this application, where claims 3, 11, 14, 20 and 23 are independent.

In the Office Action, claims 1-22 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7, 11-14 and 16-19 of a copending Application No. 10/523,377. The Examiner indicated that a terminal disclaimer may be used to overcome this rejection. This rejection is respectfully traversed. However, it is respectfully submitted that Applicants will consider filing a terminal disclaimer, if necessary in view of any allowable claims, upon indication that the present application is otherwise allowable or includes allowable claims.

In the Office Action, claims 3-22 are rejected under 35 U.S.C. §102(e) over U.S. Patent Application Publication No. 2002/0029256 (Zintel). Applicants respectfully traverse and submit that claims 3-29, as amended, are patentable over Zintel for at least the following reasons.

At the outset, it is pointed out that Zintel has over 51 figures and 46 pages of double columns of text qualifying Zintel as "complex". Therefore pursuant to 37 CFR 1.104, the Examiner must indicate how the reference is being applied. Further, since the reference is

complex, Applicants will confine their remarks to those portions cited by the Examiner, except as otherwise indicated. Applicants make no representation as to the contents of other portions of the references.

Zintel is directed to an XML-based template language for devices and services. As recited in the Abstract, a universal plug and play (UPnP) device makes itself known through a set of processes-discovery, description, control, eventing, and presentation. Following discovery of the UPnP device, an entity can learn more about the UPnP device and its capabilities by retrieving the device's description. A template is derived from a template language that is used to define elements to describe the device and any services supported by the device.

As recited in paragraph [0061], a User Control Point is a set of modules that enable communication with a UPnP Controlled Device. User Control Points initiate discovery and communication with Controlled Devices, and receive Events from Controlled Devices. "Examples of devices that could be User Control Points are the personal computer (PC), digital television (DTV), set-top box (STB), handheld computer and smart mobile phone, and the like. Nothing prevents a single device from implementing the functionality of a User Control Point and one or more Controlled Devices at the same time." (Zintel, paragraph [0061], last two sentences)

It is respectfully submitted that Zintel does not disclose or suggest the present invention as recited in independent claim 3, and similarly recited in independent claims 11,

14, 20 and 23 which, amongst other patentable elements, recites (illustrative emphasis provided):

> forming a hierarchy having predetermined top level elements including a controller device type and a basic device type, and at least one further level of subsidiary device types depending from the basic device type and inheriting properties of higher level device types on which the subsidiary device type depends, but not including any further level of subsidiary device types depending from the controller device type; ...
>
> including in the simple device description message by the second device a device type value representing a type the second device **by identifying a location of the second device within the hierarchy**; ...
>
> determining by the first device that the second device is controllable by the first device **based on the device type value that identifies the location** of the second device within the hierarchy .

Determining that a device is controllable **based on** device type value that identifies the **location of the device within a hierarchy**, where the hierarchy a further level of subsidiary device types depending from a basic device type and inheriting properties of higher level device types on which the subsidiary device type depends, but not including any further level of subsidiary device types depending from the controller device type, is nowhere disclosed or suggested in Zintel. This provides substantial benefits, such as reducing bandwidth requirements and complexity.

Accordingly, it is respectfully requested that independent claims 3, 11, 14, 20 and 23 be allowed. In addition, it is respectfully submitted that claims 4-10, 12-13, 14-19, 21-22 and 24-29 should also be allowed at least based on their dependence from independent claims 3, 11, 14, 20 and 23 as well as their individually patentable elements. Accordingly,

separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

By_____
Dicran Halajian, Reg. 39,703
Attorney for Applicant(s)
November 19, 2010

THORNE & HALAJIAN, LLP
111 West Main Street
Bay Shore, NY 11706
Tel: (631) 665-5139
Fax: (631) 665-5101

Please direct all inquiries and correspondence to:
Michael E. Belk, Reg. 33,357
Philips Intellectual Property & Standards
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
(914) 333-9643